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FILED

DISTRICT COURT OF GUAM

OCT 13 2005

MARY L.M. MORAN
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
PI-JU WU,)
)
Defendant.)

CRIMINAL CASE NO. 05-00063

PLEA AGREEMENT

Pursuant to Rule 11(c)(1)(B), the United States and the defendant, PI-JU WU, enter into the following plea agreement:

1. The defendant agrees to enter a guilty plea to the sole count of the Indictment charging her with Alien Smuggling in violation of Title 8, United States Code, Sections 1324(a)(2)(B)(ii) and Title 18, United States Code, Section 2.

2. The defendant, Pi-Ju Wu, understands that the maximum sentence for Alien Smuggling in violation of Title 8, U.S.C. § 1324(a)(2)(B)(ii), is a term of ten (10) years imprisonment, with a mandatory minimum term of three (3) years incarceration, a \$250,000 fine, and a \$100 special assessment fee, which must be paid at the time of sentencing. Any sentence imposed may include a term of supervised release of not more than three (3) years in addition to such terms of imprisonment. Defendant understands that if she violates a condition of supervised

1 release at any time prior to the expiration of such term, the court may revoke the term of
2 supervised release and sentence her up to an additional two (2) years of incarceration pursuant to
3 18 U.S.C. § 3583(e)(3).

4 The defendant understands that the Court may impose a fine pursuant to the Sentencing
5 Reform Act of 1984. If defendant is financially unable to immediately pay the fine in full,
6 defendant agrees to make a full disclosure of her financial status to the United States Attorney's
7 Office by completing a Financial Disclosure Form (OBD-500) for purpose of fixing a monthly
8 payment schedule. Defendant understands that, by law, interest accrues on any remaining
9 balance of the debt.

10 3. The defendant agrees to cooperate fully with the United States. The defendant
11 understands and agrees that complete and truthful cooperation is a material condition of this
12 agreement. Cooperation shall include providing all information known to the defendant
13 regarding any criminal activity, including but not limited to the offense described in this
14 agreement. Cooperation will also include complying with all reasonable instructions from the
15 United States; submitting to interviews by investigators and attorneys at such times and places to
16 be determined by counsel and/or investigators for the United States; producing to the United
17 States all non-privileged documents (including claimed personal documents) and other materials
18 in the possession, custody or control of the defendant requested by attorneys and agents of the
19 United States; and, testifying fully and truthfully before any grand juries, hearings, trials or any
20 other proceedings where the defendant's testimony is deemed by the United States to be relevant.
21 The defendant understands that such cooperation shall be provided to any state, local and federal
22 law enforcement agencies designated by counsel for the United States. Further, it is understood
23 and agreed that the defendant shall not directly, indirectly, or intentionally disclose anything
24 defendant knows or has done concerning the government's investigation to anyone other than
25 defendant's attorney. Defendant agrees to take no steps directly or indirectly to "tip" or warn any
26 subject of this investigation that defendant, subject or anyone else is being investigated. The
27 United States agrees that any statements made by the defendant during the cooperation phase of
28 this agreement shall not be used against the defendant in any subsequent prosecutions unless the

1 defendant has breached this agreement. In return for this cooperation, the United States agrees
2 not to prosecute defendant for any other non-violent offenses which were committed in the
3 District of Guam or the Northern Mariana Islands which she reveals to federal authorities
4 pursuant to this agreement. In addition, if defendant cooperates as set forth in this agreement, the
5 government will recommend that defendant receive the minimum term of incarceration legally
6 available under the applicable statutes and Sentencing Guidelines. If defendant does not fully
7 cooperate as set forth in this agreement, the government will recommend whatever sentence of
8 incarceration within the Guidelines range it may deem appropriate.

9 4. If the United States decides that the defendant has provided "substantial assistance"
10 pursuant to Title 18, United States Code, Section 3553(e), the United States will request that the
11 Court depart below the guideline range to whatever guidelines range or sentence of incarceration
12 the United States in its sole discretion terms appropriate when fixing a sentence for this
13 defendant or may, within one year after sentencing herein, move the Court to order relief
14 pursuant to Rule 35, Rules of Criminal Procedure to whatever guidelines range or sentence of
15 incarceration the United States in its sole discretion deems appropriate. Defendant acknowledges
16 that the United States has made no promise, implied or otherwise, that defendant will be granted
17 a "departure" for "substantial assistance." Defendant further acknowledges that no promise of
18 any kind has been made that a motion requesting such departure will be made except as
19 otherwise provided herein.

20 The United States agrees to consider the totality of the circumstances, including but not
21 limited to the following factors, in determining whether, in the assessment of the U. S. Attorney,
22 defendant has provided "substantial assistance" which would merit a government request for a
23 downward departure from the applicable guideline sentencing range:

- 24 (1) the United States' evaluation of the significance and usefulness of any
25 assistance rendered by defendant;
26 (2) the truthfulness, completeness, and reliability of any information or testi-
27 mony provided by defendant;
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1 (3) the nature and extent of defendant's assistance;

2 (4) any injuries suffered or any danger or risk of injury to defendant or defen-
3 dant's family resulting from any assistance provided by defendant; and

4 (5) the timeliness of any assistance provided by defendant.

5 It is understood that even if a motion for departure is made by the United States, based
6 upon defendant's perceived "substantial assistance," the final decision as to how much, if any,
7 reduction in sentence is warranted because of that assistance, rests solely with the District Court.

8 5. The defendant understands that to establish a violation of Alien Smuggling as charged
9 pursuant to 8 U.S.C. § 1324(a)(2)(B)(ii), the government must prove each of the following
10 elements beyond a reasonable doubt:

11 First: the defendant brought an alien to the United States;

12 Second: the defendant knew that the person was an alien;

13 Third: the defendant knew this alien had not received prior official
14 authorization to come to, enter, or reside in the United States; and

15 Fourth: that the defendant did this for the purpose of commercial advantage
or private financial gain.

16 6. The defendant understands that the Sentencing Guidelines apply to this offense. The
17 defendant also understands that the facts she stipulates to herein will be used among other things,
18 to determine her sentence.

19 Further, if the defendant cooperates with the United States by providing information
20 concerning the unlawful activities of others, the government agrees that any self-incriminating
21 information so provided will not be used against defendant in assessing her punishment, and
22 therefore, pursuant to § 1B1.8(a) of the Sentencing Guidelines, this information should not be
23 used in determining the applicable guidelines range.

24 The defendant understands that notwithstanding any agreement of the parties, the United
25 States Probation Office will make an independent application of the Sentencing Guidelines. The
26 defendant acknowledges that should there be discrepancies in the final sentencing guidelines'
27 range projected by her counsel or any other person, such discrepancy is not a basis to withdraw
28 her guilty plea. Pursuant to Federal Rule of Criminal Procedure Rule 11(c)(3)(B), the defendant

1 also understands that if the court does not accept the sentencing recommendation made by the
2 United States to the court pursuant to Rule 11(c)(1)(B), the defendant nevertheless has no right to
3 withdraw her guilty plea.

4 7. The government and the defendant stipulate and agree to the following facts for
5 purposes of the Sentencing Guidelines and that the Sentencing Guidelines range shall be
6 determined solely from the facts set forth herein, to wit:

7 The defendant was born on December 2, 1966 and is a citizen of the Taiwan.

8 On August 8, 2005, defendant brought an alien, Sha Lin, to the Guam International
9 Airport. Defendant knew that Sha Lin was a citizen of the People's Republic of China, and that
10 she had not received prior official authorization to come to, enter, or reside in the United States.
11 The defendant was to be paid for her services and her expenses reimbursed. The defendant
12 accompanied alien Sha Lin to Guam from Saipan..

13 8. The defendant understands that this plea agreement depends on the fullness and
14 truthfulness of her cooperation. Therefore, defendant understands and agrees that if she should
15 fail to fulfill completely each and every one of her obligations under this plea agreement, or make
16 material omissions or intentional misstatements or engage in criminal conduct after the entry of
17 her plea agreement and before sentencing, the government will be free from its obligations under
18 the plea agreement; thus defendant, in addition to standing guilty of the matters to which she has
19 pled pursuant to this agreement, shall also be fully subject to criminal prosecution for other
20 crimes, and for the counts which were to be dismissed. In any such prosecution, the prosecuting
21 authorities, whether federal, state, or local, shall be free to use against her, without limitation, any
22 and all information, in whatever form, that she has provided pursuant to this plea agreement or
23 otherwise; defendant shall not assert any claim under the United States Constitution, any statute,
24 Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of
25 Evidence, or any other provision of law, to attempt to bar such use of the information.

26 9. If defendant's guilty plea is rejected, withdrawn, vacated, or reversed at any time, the
27 United States will be free to prosecute the defendant for all charges of which it then has knowl-
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1 edge, and any charges that have been dismissed will be automatically reinstated or may be
2 represented to a grand jury with jurisdiction over the matter. In such event, defendant waives any
3 objections, motions or defenses based upon The Statute of Limitations, Speedy Trial Act, or
4 constitutional restrictions as to the time of bringing such charges.

5 10. In the event that the United States believes the defendant has failed to fulfill any
6 obligations under this Agreement, or has falsely implicated an innocent person in the commission
7 of a crime, then the United States shall, in its discretion, have the option of declaring any
8 provision of this Agreement or of its obligations herein null and void, in which event or events
9 the defendant shall not be entitled to withdraw the plea of guilty made in connection with this
10 Plea Agreement. Whether or not the defendant has completely fulfilled all of the obligations
11 under this Agreement shall be determined by the Court in an appropriate proceeding at which any
12 disclosures and documents provided by the defendant shall be admissible and at which the
13 United States shall be required to establish any breach by a preponderance of the evidence. In
14 order to establish any breach by the defendant, the United States is entitled to rely on statements
15 and evidence given by the defendant during the cooperation phase of this Agreement.

16 11. Nothing in this Agreement shall protect the defendant in any way from prosecution
17 for any offense committed after the date of this Agreement. Should the defendant be charged
18 with any offense alleged to have occurred after the date of this Agreement, the information and
19 documents disclosed to the United States during the course of the cooperation could be used
20 against the defendant in any such prosecution.

21 12. The defendant understands that her sentencing may be continued, at the sole
22 discretion of the United States, until after the indictment and trial of any associates involved.
23 This will also enable the Court to determine the full degree of the defendant's cooperation. The
24 defendant therefore waives any right she may have to any speedy sentencing and hereby agrees to
25 any continuance of her sentencing date as it may become necessary.

26 13. Nothing in this Agreement shall bind any other federal, state or local Districts,
27 jurisdiction or law enforcement agency other than the United States Attorney for the District of
28 Guam and the Northern Mariana Islands.

1 14. In exchange for the Government's concessions in this Plea Agreement, the defendant
2 waives any right to appeal this conviction or to collaterally attack this conviction. Defendant
3 reserves the right to appeal the sentence imposed in this case.

4 15. This agreement is not contingent in any way upon the outcome of any investigation,
5 proceeding or subsequent trial. Thus, none of the rights and obligations described above are in
6 any way dependent upon a grand jury returning an indictment, a jury's verdict at any trial, or the
7 success of any prosecution.

8 16. The defendant acknowledges that she has been advised of her rights as set forth
9 below prior to entering into this plea agreement. Specifically, defendant has been fully advised
10 of, has had sufficient opportunity to reflect upon, and understands the following:

11 a. the nature and elements of the charges and the mandatory minimum penalty
12 provided by law and the maximum possible penalty provided by law;

13 b. her right to be represented by an attorney;

14 c. her right to plead not guilty and the right to be tried by a jury and at that trial, the
15 right to be represented by counsel, the right to confront and cross-examine witnesses against her,
16 and the right not to be compelled to incriminate herself, that is, the right not to testify;

17 d. that if she pleads guilty, there will not be a further trial of any kind on the charges to
18 which such plea is entered so that by entering into this plea agreement, she waives, that is, gives
19 up, the right to a trial;

20 e. that, upon entry of a plea of guilty, or thereafter, the Court may ask her questions
21 about the offenses to which she has pled, under oath, and that if she answers these questions
22 under oath, on the record, her answers may later be used against her in prosecution for perjury or
23 false statement if an answer is untrue;

24 f. that she agrees that the plea agreement is voluntary and not a result of any force,
25 threats or promises apart from this plea agreement;

26 g. that this plea agreement has been translated into Mandarin for her and she fully
27 understands it; and

28 h. the defendant is satisfied with the representation of her lawyer and feels that her

1 lawyer has done everything possible for her defense.

2 16. This Plea Agreement states the complete and only Agreement between the United
3 States Attorney for the District of Guam and the Northern Mariana Islands and the defendant,
4 supersedes all prior understandings, if any, whether written or oral, and cannot be modified other
5 than by a writing that is signed by all parties or is on the record in Court. No other promises or
6 inducements have been or will be made to the defendant in connection with this case, nor have
7 any predictions or threats been made in connection with this plea.

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9 DATED: 10/13/05

10 Wu, PI-Ju.
PI-JU WU
Defendant

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12 DATED: 10/13/05

13 [Signature]
JOHN GORMAN
Attorney for Defendant

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17
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19 DATED: 10/13/05

LEONARDO M. RAPADAS
United States Attorney
Districts of Guam and NMI

20 [Signature]
JEFFREY J. STRAND
Assistant U.S. Attorney

21
22 DATED: 10-13-05

23 [Signature]
RUSSELL C. STODDARD
First Assistant U.S. Attorney